IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8775 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JINABHAI CHHANABHAI BARAIYA

Versus

DISTRICT MAGISTRATE

Appearance:

MR YOGESH S LAKHANI for Petitioner

Mr S K Patel, AGP for Respondent No. 1, 4

MS PJ DAVAWALA for Respondent No. 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 14/09/2000

ORAL JUDGEMENT

The petitioner has filed the present petition under Article 226 of the Constitution of India challenging the order of detention dated 22.6.2000 passed

by District Magistrate, Amreli in exercise of powers conferred on him under section 3(2) of the Prevention of Black Marketing and Maintenance of Supplied of Essential Commodities Act, 1980 on various grounds.

2. Rule was issued. Mr S K Patel, learned AGP appears for the State. Mrs. P J Davawala,learned Addl.Standing Counsel appears for respondent No.3-Union of India. I have heard the learned Advocates for the parties and have perused the papers.

3. Learned Advocate for the petitioner has referred to a document at page 17. It contains the grounds for detention of the detenu. Ground 1(b) says that the petitioner has utilised diesel permit card and has disposed of 500 litres of diesel in blackmarket. That the said card had already been cancelled and such a card has been used by the petitioner for the above purpose. Learned Advocate for the petitioner submits that the copy of the said card which has been cancelled, was not supplied to the petitioner. This ground has been taken up in ground (F) in page 6 and 7 of the petition. The detaining authority has not filed affidavit and there was no mention even during the course of argument that this document was supplied to the petitioner. It is, therefore, clear that this document considered by the detaining authority for the purpose of passing detention order was not supplied to the petitioner. Non-supply of material document relied upon by the detaining authority for the purpose of detention would vitiate the further detention of the petitioner. There is no explanation why the said document has not been supplied. Therefore, it is very clear that the detaining authority had not supplied the material document considered for the purpose of detention of the petitioner and the petitioner has been put to loss of valuable right of making representation against his detention as the concerned and relevant documents are not supplied.

4. In view of the above, the further detention of the petitioner cannot be sustained and consequently, the impugned detention order is required to be quashed and set aside. Accordingly on the single ground of non-supply of documents, this petition is allowed. The impugned order of detention dated 22.6.2000 passed by the District Magistrate, Amreli is quashed and set aside. The detenu is directed to be released forthwith, if not required in any other case. Rule is made absolute accordingly. No order as to costs.

14.9.2000 [D P Buch, J.

msp